

O.A. 697/2019 (D.B.)

**Coram:Shri Shree Bhagwan,
Vice-Chairman and
Shri A.D. Karanjkar,
Member(J)**

Dated : 18/03/2020.

Heard Shri S.P. Palshikar, Id. counsel for the applicant, Shri H.K. Pande, Id. P.O. for R-1 to 3, Shri M.V. Bute, Id .counsel holding for Shri S.G. Jagtap, Id .counsel for R-4 and none for R-5.

2. The learned counsel for the applicant submitted that the pleadings are complete. Therefore, the matter is admitted and it be kept for final hearing.

The Id. P.O. waives notice for R-1 to 3.

S.O. 08/04/2020.

Member (J)

Vice-Chairman

dnk.

O.A. 201/2020 (D.B.)

**Coram:Shri Shree Bhagwan,
Vice-Chairman and
Shri A.D. Karanjkar,
Member(J)**

Dated : 18/03/2020.

Heard Shri M.V. Bute, Id .counsel for the applicant and Shri S.A. Deo, Id. CPO for the State.

2. The learned CPO submitted that at present the applicant is in service and he is serving as Assistant Registrar, Cooperative Societies, Group-B, Head Quarter, Pune. In view of this, this Bench has no jurisdiction to entertain the matter.

3. The learned counsel for the applicant submitted that the applicant is ready to withdraw the O.A. and liberty may be given to him present it before the appropriate Bench.

4. In view thereof the O.A. is disposed of with liberty to present the matter before appropriate Bench. No order as to costs.

Member (J)

Vice-Chairman

dnk.

O.A.No.200/2020 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :18/03/ 2020.

Heard Shri S.P.Palshikar, the Id. Counsel for the applicant and Shri M.I.Khan, the Id. P.O. for the State.

2. As pointed out by Id. counsel for the applicant, the impugned order of suspension passed on 22.10.2019 (Annexure-A-3, P.B., Pg. No. 32) and in the first para itself it is written that it has been made effective from 03.10.2019 i.e. the date on which applicant was taken in custody. As pointed out by Id. counsel for the applicant though the applicant has been served chargesheet, the chargesheet has been served vide letter dated 11.02.2020 (Annexure-A-5, P.B., Pg. No. 39) i.e. after 90 days of suspension.

3. The case is squarely covered by the Government G.Rs. and Hon'ble Apex Court Judgments which are below:-

(i) The Apex Court in Civil Appeal No. 1912 of 2015 (arising out of SLP No.31761 of 2013) in the case of Ajay Kumar Chaudhary Vs. Union of India through its Secretary and another in its Judgment dated 16/02/2015 in para no. 14, it has observed that :-

14 We, therefore, direct that the currency of a Suspension Order should not extend beyond three months if within this period the Memorandum of Charges/Chargesheet is not served on the delinquent

officer/employee; if the Memorandum of Charges/Chargesheet is served a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the concerned person to any Department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution. We recognize that previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time limits to their duration. However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us.

(ii) The Hon'ble Apex Court in its Judgment in Civil Appeal No. 8427-8428 of 2018 (Arising out of S.L.P. (Civil) No. 12112-12113 of 2017) in the case of **State of Tamil Nadu Vs. Pramod Kumar IPS and Anr. delivered on 21/08/2018** in its para no. 23 had observed as follows:-

*23. This Court in **Ajay Kumar Choudhary v. Union of India, (2015) 7 SCC 291** has frowned upon the practice of protracted suspension and held that suspension must necessarily be for a short duration. On the basis of the material on record, we are convinced that no useful purpose would be served by continuing the first Respondent under suspension any longer and that his reinstatement would not be a threat to a fair trial. We reiterate the observation of the High Court that the Appellant State has the liberty to appoint the first Respondent in a non sensitive post.*

(iii) The Principal Bench of Maharashtra Administrative Tribunal Mumbai Bench in O.A. No. 35/2018 Judgment delivered on 11/09/2018 has also rejected continuation of suspension beyond 90 days.

(iv) The Government of Maharashtra has issued G.R. dated 09/07/2019 (Annexure-A-4, Pg. No. 34). The Id. Counsel for the applicant has relied on para no. (ii) of the said G.R. on Pg. No. 35.

(v) The Hon'ble High Court of Bombay, Bench at Nagpur in W.P. No. 7506/2018, Judgment delivered on 17.07.2019 (Annexure-A-6, Pg. No. 47), was also on same principle. It has observed in para no. 2 that facts of this case are squarely covered by Government Resolution G.A.D. dated 09/07/2019.

5. The Id. P.O. requested time for taking instructions from the department. However, since applicant relief is squarely covered as per G.R. dated 09.07.2019, as mentioned in Hon'ble High Court order in W.P. No. 7506/2018, order delivered on 17.07.2019 in para no. 2, it is not felt that any instructions are required from the Department.

6. In view of this settled Principle, Suspension order dated 22.10.2019 is against the Government policy and G.R. dated 09.07.2019 and it is bad as per the Government policy, G.R. and in law. So, it requires to be quashed. Hence, following order:-

ORDER

A. The suspension order dated 22.10.2019 (Annexure-A-3, Pg. No. 32) is quashed and set aside with immediate effect.

B. The respondents are directed to issue reinstatement order to the applicant immediately and give suitable posting as per there Rules and Regulations **within 30 days** from the date of receipt of this order.

C. With the above directions, **O.A. is disposed off with no order as to costs.**

Vice Chairman

Date:-18/03/2020.

aps.

O.A.No.529/2019 (S.B.)

Coram:Shri Shree Bhagwan, Vice Chairman
Dated :18/03/ 2020.

None for the applicant. Shri M.I.Khan, the Id.
P.O. for the respondents.

2. **S.O. four weeks.**

Vice Chairman

Date:-18/03/2020.
aps.